

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ SEP 18 2017 ★

BROOKLYN OFFICE

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:
CARITINO CANDIA, individually and on behalf
of others similarly situated, :

Plaintiff, :

- against - :

MIDDLE KINGDOM INC., d/b/a LONG
SPRING GARDEN and JAMES CHAU, :

Defendants. :

DECISION AND ORDER

15-cv-1710 (AMD)(PK)

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ANN DONNELLY, District Judge.

The plaintiff, Caritino Candia, individually and on behalf of all other persons similarly situated, commenced this action against the defendants, Middle Kingdom, Inc. (d/b/a Long Spring Garden) ("Middle Kingdom") and James Chau, pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* ("FLSA"), and the New York Law Laws, Art. 6, §§ 190 and 650 ("NYLL"). The plaintiff alleges that the defendants violated the FLSA and NYLL by failing to pay him minimum wage, overtime, equipment costs, and spread-of-wage premiums; by failing to comply with uniform maintenance practices; and by failing to provide wage notice and acknowledgment. Despite proper service of the summons and complaint, the defendants did not answer or defend against this action. The plaintiff now moves for a default judgment pursuant to Rule 55(b)(2) of the Federal Rules of Civil procedure and for attorney's fees, costs, and interest.

On August 17, 2017, Magistrate Judge Peggy Kuo issued a Report and Recommendation that I enter default judgment against the defendants in the amount of \$354,588.10. (ECF 49.) On

August 29, 2017, Judge Kuo's chambers mailed the judgment to the defendants, and ordered them to file any objections by September 14, 2017. No party has objected to Judge Kuo's Report and Recommendation within the time prescribed by 28 U.S.C. § 636(b)(1). For the reasons that follow, I adopt Judge Kuo's report in its entirety.

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where, as here, no party has objected to the magistrate judge's recommendation, "a district court need only satisfy itself that there is no clear error on the face of the record." *Urena v. New York*, 160 F.Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985)).

I have reviewed Judge Kuo's thorough and well-reasoned opinion and find no error. Accordingly, I enter a judgment in favor of the plaintiff in the total amount of \$354,588.10, plus an additional pre-judgment interest at the rate of \$3.34 per day from August 17, 2017 to the date on which judgment is entered in this action. This amount represents \$176,767.36 in unpaid overtime wages, \$13,563.20 in unpaid spread-of-hours premiums, \$70.00 in equipment costs, \$10,000 in statutory damages for NYLL wage notice and statement violations, \$141,165.98 in liquidated damages for the overtime and spread-of hours violations, \$6,626.56 in pre-judgment interest, \$5,770.00 in attorney's fees, and \$625.00 in costs. The Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Ann M. Donnelly

✓ Ann M. Donnelly
United States District Judge



Dated: Brooklyn, New York
September 18, 2017